REMARKS

Claims 2, 4-12 and 14-20 are presently pending in the application. Claims 8 and 15 are in independent form. All of the claims stand finally rejected under §103 over Geddes in view of Fukami.

The Examiner argues that all the limitations of claim 8 are disclosed in Geddes except that the portion with the passageway is not disclosed as being arranged between an intake manifold and a throttle body. The Examiner argues that Fukami teaches a noise attenuation system with a portion defining a passageway arranged between the intake manifold and throttle body, and relies upon Figure 2 and column 2 lines 66-column 3 line 39. However, the portion with the passageway of the air induction system is not arranged between the intake manifold and throttle body in Fukami, as argued by the Examiner. Rather, the passageway for the induction noise attenuation system is shown arranged upstream of the intake manifold and throttle body in Figure 2. In order for Fukami to meet the limitation of claim 8, the passageway of the noise attenuation system would have to be arranged between element 9 (the intake passage) and element 10 (the carburetor). Accordingly, the combination of Geddes and Fukami cannot meet the limitations of claim 8, and claim 8 and the depending claims are allowable.

Claims 9 and 10 are additionally allowable over Geddes and Fukami. Claim 8 requires detection of the speed of a combustion engine, and claim 10 requires that engine RPM be used. The Examiner relies upon Fukami to provide these limitations. However, as argued in Applicant's first response, Geddes utilizes sensors 12 and 24 to measure the actual noise of the exhaust system. A noise cancellation signal is sent to the loud speaker based upon the noise sensed by the sensors 12 and 24. Measurement of engine speed is unnecessary and provides no benefit to Geddes because Geddes does not estimate what the noise is based upon engine speed, but rather measures the actual noise in an attempt to better cancel noise in the exhaust system. Claim 15 is allowable for the reasons set forth above with respect to claims 9 and 10.

In the Response to Arguments section of the Examiner's Office Action, the Examiner argues that Kameda, Brackett , and Tanaka teach the use of a noise attenuation system being placed between an intake manifold in a throttle body. This statement by the Examiner is irrelevant since the Examiner has not provided a rejection of any of the claims based upon these references. If the Examiner would like to issue a Non-Final Office Action with a new rejection incorporating any of these references, then the Applicant can respond to the rejection. Otherwise, any reliance upon these references by the Examiner is improper. The Examiner also relies upon these references to argue that they teach a noise attenuation system that reads the engine speed in order to produce the noise canceling wave. The Examiner concludes that if the speed of the engine was not proportional to the magnitude and the noise produced then why would both references and the Applicant be interested knowing the speed of the engine in order to attenuate noise? Again, Applicant reiterates the improper use of the references by the Examiner. Furthermore, the references do not teach that engine speed is proportional to the noise. Noise occurs at different frequencies and various engine orders. The noise for a particular engine order may rise or fall based upon increased engine speed. Applicant's interest in the engine speed is part of the Applicant's invention and is not prior art. Accordingly, the combination of Geddes and Fukami is still improper and claims 9-12 and 15-20 are allowable.

It is believed that this application is in condition for allowance. If any fees or extension of times are required, please charge to Deposit Account No. 50-1482.

Respectfully submitted,
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